

See Orders

CONSOLIDATED CITY OF INDIANAPOLIS
MARION COUNTY
STATE OF INDIANA
EXECUTIVE ORDER NO. 3A, 1976

EQUAL EMPLOYMENT OPPORTUNITIES UNDER
CITY AND COUNTY CONTRACTS

WHEREAS, it is the public policy of the City of Indianapolis and Marion County to encourage non-discrimination in employment in both the private and public sectors, and to utilize aggressive affirmative action in implementing such policy, this administration hereby reaffirms that discrimination based on race, sex, creed, color, religion, national origin, and ancestry is illegal and undesirable; and

WHEREAS, it is in the best interest of the entire community to secure full participation in the skilled trades of the construction industry, this administration re-affirms such goals and objectives as outlined in the March 4, 1970, Memorandum of Understanding, referred to as the Indianapolis Plan; and

WHEREAS, it is the policy of this administration to utilize minority-owned businesses securing goods and services for the city and county in at least an amount equal to the proportion of minorities resident in Marion County and to encourage business opportunities for women-owned businesses whenever possible, insofar as such is possible without detriment to the taxpayers;

NOW THEREFORE, by virtue of the authority vested in me as Mayor of the Consolidated City of Indianapolis and successor at law to the Marion County Commissioners, it is hereby ordered as follows:

1. From and after this date, an Office of Contract Compliance is created within the Central Purchasing Division of the Department of Administration. The office is empowered to issue standards and procedures to implement provisions of

this Executive Order. The Office of Contract Compliance will conduct compliance reviews of the contractor's personnel policies and practices and monitor compliance with requirements of this order.

2. Contractors for construction, repair, or remodeling shall be required to execute (on behalf of prime and all subcontractors) the following non-discrimination commitment:

"Contractor certifies for itself and all subcontractors compliance with existing laws of the State of Indiana and the United States regarding prohibition of discrimination in employment practices on the basis of race, sex, creed, color, religion, national origin, and ancestry. Contractor further certifies that it (a) is a signatory to the 1970 Memorandum of Understanding, known as the Indianapolis Plan, regarding affirmative action in employment of minorities, or (b) has formulated its own affirmative action plan for the recruitment, training, and employment of minorities and to include goals and timetables and affirmative action steps with reference to standards as set by the Office of Contract Compliance, a copy of which shall be attached to the bid."

3. In addition, all bidders for contracts for construction, repair, or remodeling work funded in whole or in part with federal monies, shall fully comply with the United States Department of Labor "Model Federal EEO Bid Condition," as set forth in 41 Federal Register 32482, August 3, 1976, and attached to the invitation to bid, including President's Executive Order #11246, as amended, and all implementing rules and regulations thereunder.

4. In recognition of the need for specific efforts at implementation of the City's stated goals, all invitations to bid hereafter issued for construction, repair, and remodeling work required by law to be submitted by competitive bid shall include the requirement of employment of apprentices on the basis of equal opportunity for each building trades craft employed on the project under a Joint Apprenticeship Training Program, registered with the United States Department of Labor, Bureau of Apprenticeship and Training. Such apprentices shall, if same are available, be employed at a ratio of one (1) apprentice for the first three (3) journeymen employed, one (1) apprentice for the next six (6) journeymen employed, and one (1)

apprentice for each additional ten (10) journeymen employed.

The number of minority apprentices shall equal the proportion of the particular group of the total population of the county as verified by the Indianapolis Department of Metropolitan Development.

5. Pursuant to IC 5-16-7, each construction project must receive a scale of prevailing wages for this area from the Indiana State Division of Labor. All invitations to bid shall include such information. All contractors shall, in addition to other requirements, include in their computation for bid such wage information. The Office of Contract Compliance shall have the responsibility to resolve disputes regarding non-compliance with project prevailing wage scales to assure compliance with the proper scale. If, in the opinion of the Office of Contract Compliance, the dispute cannot be resolved informally, the information shall be transmitted to the Marion County Prosecutor for further proceedings in enforcing the law, pursuant to IC 5-16-7-3.

6. All non-construction contracts hereafter awarded for goods or services of whatever nature, totaling twenty thousand dollars (\$20,000.00) or more, to firms or corporations having twenty (20) employees or more, shall require as a condition to the execution:

- a. Certification that the contractor/vendor complies with the laws of the State of Indiana and the United States prohibiting discrimination in employment on the basis of race, sex, color, religion, or national origin.
- b. Certification that the contractor either has formulated an affirmative action plan for recruiting, training, hiring, and promoting minorities; or that the contractor is formulating such a plan.
- c. A copy of the affirmative action plan to be placed on file along with the contract in the Office of Contract Compliance either immediately upon execution of the contract, if one is already prepared, or within thirty (30) days following execution of the contract, if one is not fully prepared. The affirmative action plan must comply with standards established by the Office of Contract Compliance.

7. Contracts between such a supplier of goods or services, of whatever nature, and a unit of local government, or between a contractor for construction, repair, or remodeling work and a unit of local government, shall include the following provisions for termination for non-compliance with the non-discrimination requirements of this order:

Non-Compliance Procedure

After a determination by the Office of Contract Compliance that a contractor, subcontractor, supplier or vendor has failed to comply with the terms of this Executive Order while operating under a city-county contract, or has been adjudged in violation of any applicable State or Federal law or after the award a contractor is expelled from the Indianapolis Plan while said contract is in force, the Office of Contract Compliance shall serve written notice of such non-compliance on the contractor or his representative(s). The contractor shall be responsible for notifying any subcontractor or supplier who is not in compliance.

Upon request by the Office of Contract Compliance, the contractor determined to be in non-compliance shall meet with the compliance officer within ten (10) days of the written notice in order to determine a method of correcting the deficiencies and the time period within which such remedy shall be effected. If the remedy is not agreed upon within thirty (30) days of the required notice, the compliance officer shall prescribe the remedy by which deficiencies shall be corrected and notify the contractor in writing of such determination. If the contractor does not correct the deficiencies in the manner prescribed by the Office of Contract Compliance within sixty (60) days, the city may impose one or more of the following sanctions:

- a. Cancel, terminate, suspend, or cause to be cancelled, terminated, or suspended, any contract, or any portion or portions thereof, for failure of the contractor or subcontractor to comply with the provisions of this Executive Order. Contracts may be cancelled, terminated, or suspended absolutely or continuance of contracts may be conditioned upon a program for future compliance approved by the Office of Contract Compliance.
- b. Reserve the right to review further contracts, or extensions or other modifications of existing contracts, with any non-complying contractor to ascertain whether or not such contractor has satisfied the standards and procedures as established by the Office of Contract Compliance; and, that such contractor has established and will implement personnel and employment policies that comply with the provisions of this Executive Order.

8. Individual complaints of discrimination based on race, sex, color, religion, national origin, or ancestry should be filed with the Commission on Human Rights of Indianapolis and Marion

County, pursuant to IC 22-9-1-12 and Section 16, Code of Indianapolis and Marion County, 1975.

Dated this 23rd day of November, 1976.

William H. Hutnutt, III
William H. Hutnutt, III
Mayor

Approved as to form and legality:

David R. Fricke
Corporation Counsel

Harold Miller, Purchasing Agent, Central Purchasing Division
ATTN: Harold King
Thomas R. Neal, Deputy Corporation Counsel

March 8, 1977

Mayor's Executive Order 3A, 1976.

Inter-division or department contracts among two (2) or more city agencies or between the city and the county need not include reference to F.O. 3A or incorporate the language of the order in the contract. The scope of the order includes private sector contractors doing business with some arm of city or county government.

TRM/gw